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09/641,021	08/17/2000	Alan B. Cayton	59428-P001US-10020580	4559

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EXAMINER

OUELLETTE, JONATHAN P

ART UNIT PAPER NUMBER

3629

DATE MAILED: 07/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/641,021

Applicant(s)

CAYTON ET AL.

Examiner

Jonathan Ouellette

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-77 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).
3. Claims 1-20, 22-70, and 72-77 are rejected under 35 U.S.C. 102(e) as being anticipated by Dewar (US 2002/0055866 A1).
4. As per independent Claims 1, 30, 54, and 62, Dewar discloses a method (*system, computer executable program code, or business method*) for qualifying candidates for employment with an employer, said method (*system, computer executable program code, or business method*) comprising: executing a computer program, said computer program receiving as input from said employer a desired hiring criteria of said employer (Fig.12); based on said desired hiring criteria of said employer, said computer program generating at least one *customized* application program that is executable to interact with candidates for employment

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with said employer and determine whether each of said candidates is qualified for employment with said employer (Fig.5, Fig.10); *allowing said candidates access to the at least one generated customized application program; and responsive to input from each of said candidates to the at least one generated customized application program, said at least one generated customized application program automatically determining whether each of said candidates qualifies for a position of employment with the employer* (Abstract, Fig.5, Figs.10-11). (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1)

5. As per Claims 2 and 34, Dewar discloses wherein said desired hiring criteria includes at least one criteria selected from the group consisting of: candidate's education, candidate's work experience, candidate's possessing a particular license, candidate's language skills, and candidate's computer skills (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
6. As per Claim 3, Dewar discloses wherein said computer program provides a predetermined list of hiring criteria for selection by said employer as said desired hiring criteria (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
7. As per Claim 4, Dewar discloses wherein said computer program allows said employer to input additional hiring criteria not included on said predetermined list (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
8. As per Claims 5 and 35, Dewar discloses wherein said computer program includes a user interface for interacting with said employer to receive as input said desired hiring criteria from said employer (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).

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9. As per Claim 6, Dewar discloses wherein said computer program receiving said desired hiring criteria further includes: receiving said desired hiring criteria from a user interface (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
10. As per Claim 7, Dewar discloses wherein said user interface is a separate program executable to communicative with said computer program (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
11. As per Claims 8, 36, and 57, Dewar discloses wherein said at least one customized application program is executable to interact with a candidate to enable said candidate to self-administer a qualification session for a position of employment with said employer (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
12. As per Claims 9, 37, and 58, Dewar discloses wherein said at least one customized application program enables access by one or more candidates via at least one communication platform (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
13. As per Claims 10, 38, and 59, Dewar discloses wherein said at least one communication platform includes platforms selected from the group consisting of telephony-based platform, web-based platform, and other processor-based platforms (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
14. As per Claims 11, 39, and 60, Dewar discloses an IVR application that enables access by one or more candidates via telephone (Abstract, Para 0018).
15. As per Claims 12, 40, and 61, Dewar discloses wherein said at least one customized application program includes a web-based application that enables access by one or more

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candidates via a processor-based device via the World Wide Web (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).

16. As per Claims 13 and 41, Dewar discloses wherein said generating step includes: generating a plurality of said customized application program (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).

17. As per Claims 14 and 42, Dewar discloses wherein each of said plurality of customized application programs is executable to enable interaction with candidates via a different communication platform (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).

18. As per Claim 15, Dewar discloses said computer program receiving as input from said employer preferences of said employer as to characteristics of said at least one customized application program (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).

19. As per Claim 16, Dewar discloses wherein said computer program receives as input from said employer indication of one or more communication platforms on which said at least one customized application program is to enable access by candidates (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).

20. As per Claims 17 and 67, Dewar discloses wherein said at least one customized application program is executable to assist in further screening of candidates beyond determining whether based on said desired hiring criteria said candidates qualify for a position of employment with the employer (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).

21. As per Claims 18 and 68, Dewar discloses wherein said at least one customized application program is executable to schedule future testing with a candidate determined based on said desired hiring criteria to be qualified for a position of employment with the employer (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
22. As per Claims 19 and 69, Dewar discloses wherein said at least one customized application program is executable to administer testing of a candidate determined based on said desired hiring criteria to be qualified for a position of employment with the employer (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
23. As per Claims 20 and 70, Dewar discloses wherein said at least one customized application program is executable to schedule a future personal interview with hiring personnel of the employer and a candidate determined based on said desired hiring criteria to be qualified for a position of employment with the employer (Abstract, Para 0098-0100, Para 0111-0113).
24. As per Claims 22 and 72, Dewar discloses wherein said at least one customized application program is executable to forward supplemental materials to hiring personnel of the employer for a candidate determined based on said desired hiring criteria to be qualified for a position of employment with the employer (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
25. As per Claims 23, 44, and 73, Dewar discloses wherein said supplemental materials include at least one of the materials selected from the group consisting of candidate resume, writing sample, questionnaire, letter of recommendation, and school transcript (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).

26. As per Claims 24 and 74, Dewar discloses wherein said at least one customized application is executable to forward said supplemental materials to hiring personnel electronically (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
27. As per Claims 25, 47, and 75, Dewar discloses wherein said at least one customized application is executable to forward said supplemental materials to hiring personnel via at least one communication method selected from the group consisting of e-mail and fax (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
28. As per Claims 26 and 76, Dewar discloses the step of said at least one customized application receiving said supplemental materials from a candidate (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
29. As per Claims 27, 45, and 77, Dewar discloses wherein said at least one customized application receives said supplemental materials via at least one of the following methods: fax, e-mail, and digital imaging device (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
30. As per Claim 28, Dewar discloses the step of said at least one customized application program outputting to a candidate determined by said customized application program as not qualifying for a position of employment with the employer one or more reasons for said candidate not qualifying (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
31. As per Claim 29, Dewar discloses the step of storing to a database, information about a candidate received by said at least one customized application (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).



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32. As per Claim 31, Dewar discloses wherein said processor-based device is a device selected from the group consisting of PC, workstation, laptop computer, and PDA (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
33. As per Claim 32, Dewar discloses wherein said processor-based device is a server computer (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
34. As per Claim 33, Dewar discloses wherein said server computer comprises a web server (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
35. As per Claim 43, Dewar discloses an input device communicatively coupled to said processor-based device to enable candidates to input supplemental materials to said processor-based device (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
36. As per Claim 46, Dewar discloses wherein said at least one application program is executable to electronically communicate said supplemental materials to hiring personnel (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
37. As per Claim 48, Dewar discloses a data storage device communicatively coupled to said processor-based device to enable storage of data received by said at least one application program (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
38. As per Claim 49, Dewar discloses wherein said data storage device is at least one device selected from the group consisting of hard drive, floppy disk, Compact Disc (CD), Digital Versatile Disc (DVD), and other data storage devices (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).

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39. As per Claims 50, 52, 63, and 65, Dewar discloses wherein said processor-based device is communicatively coupled to a communication network to enable access by said employer / candidates to said computer program via said communication network (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
40. As per Claims 51, 53, 64, and 66, Dewar discloses wherein said communication network is a network selected from the group consisting of: PSTN, wireless communication network, a proprietary network, general purpose processor-based information network, dedicated communication lines, computer network, direct PC to PC connection, LAN, WAN, modem to modem connection, Internet, Intranet, Extranet, or any combination thereof (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
41. As per Claim 55 as understood by the examiner, Dewar discloses wherein said code for presenting and code for generating are part of a common computer program (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).
42. As per Claim 56, Dewar discloses wherein said code for presenting and said code for generating are each part of separate computer programs that are capable of communicating with each other (Abstract, Figs.1-13, Para 0015-0100, Para 0107, Para 0111-0113, Claim 1).

***Claim Rejections - 35 USC § 103***

43. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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44. Claims 21 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dewar in view of Haverstock et al. (US 6,064,977).
45. As per Claims 21 and 71, Dewar fails to disclose wherein at least one customized application program interacts with a calendaring program to schedule said future personal interview at a time available for said hiring personnel.
46. Haverstock teaches disclose wherein at least one customized application program interacts with a calendaring program to schedule said future personal interview at a time available for said hiring personnel (C5 L7-65, C9 L19-44).
47. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included wherein at least one customized application program interacts with a calendaring program to schedule said future personal interview at a time available for said hiring personnel, as disclosed by Haverstock in the system disclosed by Dewar, for the advantage of providing a method of screening employment candidates with the ability to increase the efficiency of the collaborating hiring process by integrating / streamlining the interview step (Haverstock: C9 L19-44).

***Response to Arguments***

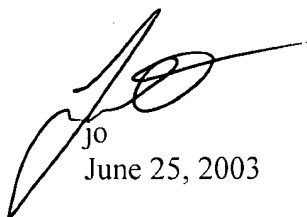
48. Applicant's arguments, filed 5/20/2003, with respect to the rejection of Claims 1-10, 12-19, 22-38, 40-59, 61-69, and 72-77 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further

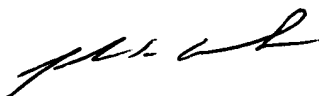
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consideration, a new ground(s) of rejection is made in view of Dewar (US 2002/0055866 A1).

*Conclusion*

49. Additional Patent and Non-Patent Literature has been referenced on the attached PTO-892 form, and the Examiner suggests the applicant review these documents before submitting any amendments.
50. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (703) 605-0662. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
51. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-3597 for After Final communications.
52. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5484.

  
JO  
June 25, 2003

  
**JOHN G. WEISS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**